

REMARKS/ARGUMENTS

Favorable reconsideration of this application is respectfully requested.

Claims 1, 2, 4-12, 14-21, and 23-28 are pending in this application. Claims 3, 13, and 22 are canceled by the present response without prejudice. Claims 1-3, 12, 13, and 20 were objected to for informalities. Claims 1-28 were rejected under 35 U.S.C. § 112, first paragraph. Claims 3, 13, and 22 were rejected under 35 U.S.C. § 112, second paragraph. Claims 1, 10, and 11 were rejected under 35 U.S.C. § 102(e) as anticipated by U.S. patent 6,483,792 to Yamamoto et al. (herein "Yamamoto '792"). Claims 1, 4-5, 8-11, 14-15, 18-20, 23-24, and 26-28 were rejected under 35 U.S.C. § 102(e) as anticipated by U.S. patent 6,587,948 to Inazawa et al. (herein "Inazawa"). Claims 1-3 and 11-13 were rejected under 35 U.S.C. § 102(e) as anticipated by U.S. patent 6,078,552 to Yamamoto et al. (herein "Yamamoto '552"). Claims 21-22 were rejected under 35 U.S.C. § 103(a) as unpatentable over Inazawa in view of Yamamoto '552. Claims 6-7, 16-17, and 25 were noted as allowable if rewritten to overcome the rejections under 35 U.S.C. § 112, second paragraph, and to include all of the limitations of their base claim and any intervening claims.

Initially, applicants gratefully acknowledge the indication of the allowable subject matter in claims 6, 7, 16, 17, and 25.

Addressing first the objection to claims 1-3, 12, 13, and 20, each of those claims is amended by the present response as suggested in paragraph 2 of the Office Action to address the objections thereto.

Addressing now the rejection of claims 1-28 under 35 U.S.C. § 112, first paragraph, that rejection is traversed by the present response.

Each of independent claims 1, 10, 20, and 28 is amended by the present response to clarify features recited therein. Specifically, independent claim 1 now further clarifies that:

wherein the second modulating means generates the
second modulating signal by allocating one bit of the sub-data

to the pit row or the mark row, the pit row or the mark row having a predetermined minimum length to which one bit of the sub-data is allocated that is a length by which the sub-data is correctly reproduced in a case in which the main data is correctly reproduced by an error correction code and a length by which the area to which one bit of the sub-data is allocated can be detected by optical observation.

The other independent claims are similarly amended as in independent claim 1. Such subject matter is believed to be fully supported by the original specification, for example in original dependent claim 3, and thus is not deemed to raise any issues of new matter. Further, such language is believed to address the rejection of claims 1-28 under 35 U.S.C. § 112, first paragraph.

In such ways, applicants respectfully submit that each of the claims is in full compliance with all requirements under 35 U.S.C. § 112, first paragraph.

Addressing now the rejection of claims 3, 13, and 22 under 35 U.S.C. § 112, second paragraph, that rejection is obviated by the present response as those claims are canceled by the present response.

Addressing now each of the above-noted prior art rejections based on Yamamoto '792, Inazawa, and Yamamoto '552, each of those rejections is traversed by the present response.

With respect to the rejection of claims 1, 10, and 11 under 35 U.S.C. § 102(e) based on Yamamoto '792, that rejection is traversed by the present response.

Applicants respectfully submit that Yamamoto '792 does not disclose the claimed feature of "the pit row or the mark row having a predetermined minimum length to which one bit of the sub-data is allocated that is a length by which the sub-data is correctly reproduced in a case in which the main data is correctly reproduced by an error correction code and a length by which the area to which one bit of the sub-data is allocated can be detected by optical observation".

At column 2, lines 22-69 and column 6, lines 28-38 (the portion of Yamamoto '792 applied in the Office Action) Yamamoto '792 merely discloses superimposing second information onto a modulation signal so as not to affect detection results of first and second areas. At that portion Yamamoto '792 does not even disclose or suggest addressing a length to which one bit of sub-data is allocated. That is, as noted above, in claims 1, 10, and 11 the pit row or mark row has a predetermined minimum length. Yamamoto '792 does not even address considering a length of a pit row or mark row, but instead is only concerned with properly superimposing an information signal onto a modulation signal.

In such ways, applicants respectfully submit that Yamamoto '792 does not disclose or suggest the above-noted claim feature in each of independent claims 1, 10, and 11, and that thus those claims distinguish over Yamamoto '792.

With respect to the teachings in Inazawa, applicants respectfully submit that Inazawa also fails to teach or suggest the same feature noted above in independent claim 1, and similarly in the other independent claims, that Yamamoto '792 fails to teach or suggest. The basis for the outstanding rejection cites the teachings in Inazawa in Figure 10, element 67, Figure 11I, Figure 15B, and column 10, lines 32-34 and 64-67, to disclose the previously recited feature of "the pit row or mark row having a predetermined minimum length to which one bit of the sub-data is allocated that is long enough such that a local change to the pit row or mark row will not affect the main data from being correctly reproduced such that the sub-data is correctly reproduced".¹ However, the claims are herein amended to recite different language, and even at the noted teachings in Inazawa at column 10, lines 32-34 and 64-67, Inazawa does not specifically address a pit row or mark row having the noted predetermined length, and at column 10, lines 64-67 Inazawa merely is directed to maintaining a proper pit width.

¹ Office Action of April 26, 2004, page 6, lines 16-21.

In such ways, the teachings in Inazawa are not believed to meet the claimed features.

With respect to the rejection based on Yamamoto '552, Yamamoto '552 is also believed to neither nor suggest the above-noted feature of "the pit row or the mark row having a predetermined minimum length to which one bit of the sub-data is allocated that is a length by which the sub-data is correctly reproduced in a case in which the main data is correctly reproduced by an error correction code and a length by which the area to which one bit of the sub-data is allocated can be detected by optical observation". In the noted portions in Yamamoto '552 at column 2, lines 2-10 and Figure 15, cited in the Office Action to meet the above-noted claim feature,² Yamamoto '552 does not disclose or suggest having a predetermined minimum length for a pit row or mark row.

In such ways, Yamamoto '552 is not believed to fully meet the features of the rejected claims.

In such ways, applicants respectfully submit that none of the cited teachings to Yamamoto '792, Inazawa, or Yamamoto '552 anticipates the noted claims under 35 U.S.C. § 102.

Further, with respect to the rejection under 35 U.S.C. § 103 over Inazawa in view of Yamamoto '552, that rejection is traversed by the present response for similar reasons as noted above. More particularly, deficiencies of Inazawa in view of Yamamoto '552 are noted above in detail, and no combinations of teachings therein are believed to render obvious the subject matter of claims 21-22.

Further, applicants wish to make the following statement, as noted in M.P.E.P. § 706.02(I)(2), that the present application U.S. serial no. 09/611,597 and U.S. patent 6,483,792 to Yamamoto, U.S. patent 6,587,949 to Inazawa, and U.S. patent 6,078,552 to Yamamoto were, at the time the invention of the present application was made, all commonly

² Office Action of April 26, 2004, page 7, line 24 to page 8, line 8.

owned by Sony Corporation. Therefore, applicants note that none of Yamamoto '792, Inazawa, and Yamamoto '552 may form a basis of a rejection under 35 U.S.C. § 103.

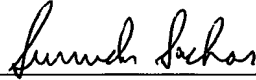
The above-noted statement is believed to remove each of the references to Yamamoto '792, Inazawa, and Yamamoto '552 as valid references against the pending claims under 35 U.S.C. § 103.

In such ways, each of the art rejections based on Yamamoto '792, Inazawa, and Yamamoto '552 is believed to be obviated by the present response.

As no other issues are pending in this application, it is respectfully submitted that the present application is now in condition for allowance, and it is hereby respectfully requested that this case be passed to issue.

Respectfully submitted,

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